

DAVID T. MALOOF (DM 3350)
THOMAS M. EAGAN (TE 1713)
MALOOF BROWNE & EAGAN LLC
411 Theodore Fremd Avenue, Suite 190
Rye, New York 10580-1411
(914) 921-1200
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x

| | | |
|----------------------------------|---|------------------------------------|
| NIPPONKOA INSURANCE COMPANY | : | |
| LIMITED, | : | 07 Civ. 10498 (DC) |
| Plaintiff, | : | DECLARATION OF |
| - against - | : | THOMAS M. EAGAN IN |
| NORFOLK SOUTHERN RAILWAY COMPANY | : | OPPOSITION TO |
| and THE KANSAS CITY SOUTHERN | : | DEFENDANTS' MOTION |
| RAILWAY COMPANY, | : | <u>FOR SUMMARY JUDGMENT</u> |
| Defendants. | : | |

----- x

I, Thomas M. Eagan, declare that I am a member of Maloof Browne & Eagan LLC, attorneys for plaintiffs Sompo Japan Insurance Company of America and Sompo Japan Insurance, Inc.

1. Attached as Exhibit 1 is a true copy the Declaration of Toshio Kasamatsu dated February 17, 2009 with Exhibits A, B and C.
2. Attached as Exhibit 2 is a true copy of the deposition of Urs. Peter Widmer dated March 2, 2009.
3. Attached as Exhibit 3 is a true copy of the deposition of Elliot Williams of Yang Ming dated February 25, 2009.
4. Attached as Exhibit 4 is a true copy of the Defendants' Response to Plaintiff's Notice to Admit.

5. Attached as Exhibit 5 is a true copy of the Crawford Marine Final Survey Report dated November 15, 2006 re the Enplas Cargo with excerpts of photos.

6. Attached as Exhibit 6 is a true copy of the Subrogation Receipt to TM Claims Services.

7. Attached as Exhibit 7 is a true copy of the Release and Assignment from TM Claims Services to NipponKoa.

8. Attached as Exhibit 8 is a true copy of the Declaration of Ryouchi Imai of OOZX dated February 25, 2009 with Exhibits A through D.

9. Attached as Exhibit 9 is a true copy of the Crawford Report dated May 19, 2006 with excerpts of photos.

10. Attached as Exhibit 10 is a true copy of the deposition of Brian Daugherty dated March 6, 2009.

11. Attached as Exhibit 11 is a true copy of the Crawford Report dated March 15, 2007 with attached invoice from OOZX USA.

12. Attached as Exhibit 12 is a true copy of photographs of Container TEXU 4763735 following the derailment.

13. Attached as Exhibit 13 is a true copy of a photograph of the train derailment in Scroggins, Texas.

I declare the foregoing is true and correct under the penalty of perjury of the laws of the United States.

Dated: Rye, New York
April 29, 2009



Thomas M. Eagan